

Amendment No. 1 to HB0325

Dean
Signature of Sponsor

AMEND Senate Bill No. 521

House Bill No. 325*

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 54-1-133, is amended by deleting the language "The department" and by substituting instead the language "The department, subject to appropriation by the general assembly,".

SECTION 2. Tennessee Code Annotated, Section 54-5-1003, is amended by deleting the section in its entirety.

SECTION 3. Tennessee Code Annotated, Section 54-1-134(a), is amended by deleting the subsection in its entirety and by substituting instead the following:

(a)

(1) As used in this subsection (a), "state highway structure" includes any state highway facility; building; bridge; overpass; tunnel; barricade; fence; wall; traffic control device; right-of-way; sign or marker of any nature whatsoever erected upon or maintained within or adjacent to a state highway or the state highway right-of-way by any authorized source or under the authority of the department; and letters or figures of any nature whatsoever on any sign, marker, barricade or fence.

(2) Any person who is not authorized to construct or repair a state highway structure and who knowingly carves upon, writes, paints or otherwise marks upon, defaces, rearranges, or alters any state highway structure commits the offense of vandalism in violation of § 39-14-408. Acts of vandalism are to be

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valued according to the provisions of § 39-11-106(a)(36) and punished as theft under § 39-14-105.

(3) Any person who is not authorized to construct or repair a state highway structure and who knowingly, in any manner, destroys, damages, knocks down, mutilates, mars, steals or removes any state highway structure commits the offense of theft of property in violation of § 39-14-103.

(4) Whenever any state highway structure described in this subsection (a) is damaged knowingly or negligently by any person, firm or corporation, the person, firm or corporation shall be liable for the damage to the state highway structure, to be recovered by a civil action in the name of the state. The civil action shall be instituted by the attorney general and reporter, whose duty it shall be to represent the state in the action.

SECTION 4. Tennessee Code Annotated, Title 54, Chapter 5, Part 7, is amended by deleting Sections 54-5-701 and 54-5-702 in their entirety.

SECTION 5. Tennessee Code Annotated, Section 54-21-110, is amended by deleting the section in its entirety and by substituting instead the following:

54-21-110. No person shall affix any outdoor advertising on any sign erected under the authority of the department, or on any right-of-way of any state highway.

SECTION 6. Tennessee Code Annotated, Section 54-1-401, is amended by deleting the language "to be known as "Don't Trash Tennessee"".

SECTION 7. Tennessee Code Annotated, Section 54-1-402, is amended by deleting the language ""Don't Trash Tennessee"" and by substituting instead the language "litter prevention and control".

SECTION 8. Tennessee Code Annotated, Section 54-1-205, is amended by deleting the language "the state of Tennessee" and by substituting instead the language "this state when such employee is directly interested as defined in § 12-4-101 in such material or product".

SECTION 9. Tennessee Code Annotated, Section 54-3-113(e), is amended by deleting the subsection in its entirety and by substituting instead the following:

(e) The department shall not develop any tollway project or toll facility project that is not within the pilot program created in this section until after the general assembly has expressly authorized the department to proceed with additional tollway projects and toll facility projects.

SECTION 10. Tennessee Code Annotated, Section 54-5-207, is amended in the first sentence by deleting the word "retarded" and by substituting instead the word "delayed".

SECTION 11. Tennessee Code Annotated, Section 54-7-201, is amended by deleting subsection (d) in its entirety and by redesignating the remaining subsection accordingly.

SECTION 12. Tennessee Code Annotated, Title 54, Chapter 7, Part 2, is amended by adding the following as a new, appropriately designated section:

54-7-20_.

(a)

(1) As used in this subsection (a), "county highway structure" includes any county highway; highway facility; building; bridge; overpass; tunnel; barricade; fence; wall; traffic control device; right-of-way; sign or marker of any nature whatsoever erected upon or maintained within or adjacent to a county highway or the county highway right-of-way.

(2) Any person who is not authorized to construct or repair a county highway structure and who knowingly carves upon, writes, paints or otherwise marks upon, defaces, rearranges, or alters any county highway structure commits the offense of vandalism in violation of § 39-14-408. Acts of vandalism are to be valued according to the provisions of § 39-11-106(a)(36) and punished as theft under § 39-14-105.

(3) Any person who is not authorized to construct or repair a county highway structure and who knowingly, in any manner, destroys, damages, knocks down, mutilates, mars, steals or removes any county highway structure commits the offense of theft of property in violation of § 39-14-103.

(4) In addition to any criminal penalty provided by law for a violation of subdivisions (a)(2) or (a)(3), there is created a separate civil cause of action for the cost of any damage resulting from such prohibited action.

(5) There is created a civil cause of action for the cost of any damage done whenever a person negligently damages any county highway structure.

(6) Criminal actions prosecuted pursuant to this subsection shall be brought by the district attorney general of the judicial district in which the damage occurred. Civil actions instituted pursuant to this subsection shall be brought by the county attorney or an attorney employed by the chief administrative officer of the county highway department.

(b)

(1) Any person who reports information to a law enforcement officer that leads to the apprehension and conviction of a person for a

violation of this section shall receive a reward of two hundred fifty dollars (\$250). The county where the conviction occurs shall provide the reward money from the proceeds of the fines collected under this section.

(2) The proceeds from the fines imposed for violations of this section shall be collected by the respective court clerks and then deposited in a dedicated county fund. The fund shall not revert to the county general fund at the end of a fiscal year but shall remain for the vandalism enforcement rewards established in subdivision (b)(1).

(3) Each county shall expend the funds generated by the fines provided for in this section by appropriation for the vandalism enforcement rewards. Excess funds, if any, may be expended for litter control programs on adoption of an appropriate resolution by the county legislative body.

(c) Notwithstanding any law to the contrary, this section shall apply to all counties.

SECTION 13. Tennessee Code Annotated, Section 54-7-206, is amended by deleting the section in its entirety and by substituting instead the following:

54-7-206.

(a) Any theft by a chief administrative officer, either directly or indirectly, of county highway or road money shall be punished under § 39-14-105.

(b) If any chief administrative officer charged with the collection, safekeeping, transfer, or disbursement of money or property belonging to the county highway department uses or diverts any part of the money or property by loan, investment, or otherwise, without authority of law, or converts any part of the money or property to the chief administrative officer's own use in any way whatsoever, the chief administrative officer commits embezzlement, and for

every act, upon conviction, shall be punished as in the case of larceny, and in addition shall be required to pay to the court an amount equal to the amount embezzled. The amount shall be forwarded by the clerk to the county highway department.

SECTION 14. Tennessee Code Annotated, Section 54-11-206, is amended by deleting the section in its entirety.

SECTION 15. Tennessee Code Annotated, Section 54-11-309, is amended by deleting the section in its entirety and by substituting instead the following:

54-11-309.

(a) Except as otherwise provided in subsection (b), no person shall charge as ferriage on any stream on any highway included in the state highway system or maintained in whole or part by the department of transportation more than the rate fixed as follows:

Automobile and passengers	\$2.00
Person, each, on foot	50
Truck or bus (one (1) ton capacity and under) and driver	2.00
Truck or bus (one (1) ton capacity and over) and driver	4.00
Automobile trailer	1.50
Truck trailer or bus trailer	3.00
Motorcycle and driver	2.00

(b) Upon application submitted to the department requesting a waiver of the maximum rate fixed within subsection (a), the commissioner may fix a maximum rate in excess of that fixed within subsection (a). Any maximum rate fixed by the commissioner pursuant to this subsection (b) shall be promulgated as a rule in accordance with the Uniform Administrative Procedures Act,

compiled in title 4, chapter 5. In promulgating any such rule, the commissioner shall give due consideration to:

(1) The public's need for adequate and efficient ferriage service at a reasonable and prudent cost; and

(2) The ferry operator's need of revenues sufficient to enable the operator, using honest, economical, and efficient management, to provide the ferriage services and to earn a reasonable profit.

SECTION 16. Tennessee Code Annotated, Section 54-13-101, is amended by deleting the language "toll bridges, causeways across bottoms, fish traps, milldams, ferries, public roads," and by substituting instead the language "public roads".

SECTION 17. Tennessee Code Annotated, Section 54-13-104, is amended by deleting such section in its entirety.

SECTION 18. Tennessee Code Annotated, Title 54, Chapter 13, is amended by deleting Part 2 in its entirety.

SECTION 19. Tennessee Code Annotated, Title 54, Chapter 13, is amended by deleting Part 3 in its entirety.

SECTION 20. Tennessee Code Annotated, Section 54-16-112(h), is amended by deleting the subsection in its entirety and by redesignating the remaining subsections accordingly.

SECTION 21. Tennessee Code Annotated, Section 58-1-601(b), is amended by deleting the subsection in its entirety.

SECTION 22.

(1) The Code Commission is directed to delete § 4-7-119 as obsolete.

(2) At each time when the applicable volume of Tennessee Code Annotated is replaced, the Code Commission is requested to delete the language "[Obsolete.]" with reference to sections in parts 2 and 3 of title 55, chapter 4, which have been deemed

obsolete by the commission, to delete from the subdivisions of § 55-4-202 the names of license plates deemed obsolete, to delete the language "[Obsolete]" appearing immediately after such names, and to redesignate, alphabetically or numerically, the subdivisions.

SECTION 23. Tennessee Code Annotated, Section 4-3-2010(c), is amended by deleting the subsection in its entirety and by redesignating the remaining subsection (d) accordingly.

SECTION 24. Tennessee Code Annotated, Section 4-3-2305(c)(4), is amended by deleting the first sentence in its entirety and by substituting instead the following:

The commissioner shall report in writing the progress of this program to any member of the general assembly upon request.

SECTION 25. Tennessee Code Annotated, Section 4-3-2308, is amended by deleting the section in its entirety.

SECTION 26. Tennessee Code Annotated, Title 4, Chapter 47, is amended by deleting the chapter in its entirety.

SECTION 27. Tennessee Code Annotated, Section 54-1-125, is amended by deleting the section in its entirety.

SECTION 28. Tennessee Code Annotated, Title 54, Chapter 2, Part 2, is amended by deleting the part in its entirety.

SECTION 29. Tennessee Code Annotated, Section 54-3-113(c), is amended by deleting the second sentence in its entirety.

SECTION 30. Tennessee Code Annotated, Section 54-5-133, is amended by deleting the section in its entirety and by substituting instead the following:

54-5-133. The commissioner shall adequately eradicate or control, or both, by chemical or other means, noxious weeds growing on state highway rights-of-way

whenever areas adjacent to the rights-of-way are determined by the commissioner of agriculture, in accordance with § 43-1-106, to be row crop areas or grassland areas.

SECTION 31. Tennessee Code Annotated, Section 54-5-1105, is amended by deleting subsection (b) in its entirety.

SECTION 32. Tennessee Code Annotated, Section 54-5-1109, is amended by deleting the section in its entirety.

SECTION 33. Tennessee Code Annotated, Section 54-11-308(e), is amended by deleting the subsection in its entirety.

SECTION 34. Tennessee Code Annotated, Section 54-16-112, is amended by deleting subsections (i) and (j) in their entirety.

SECTION 35. Tennessee Code Annotated, Section 54-17-105(c), is amended by deleting the first two sentences in their entirety and by substituting instead the following:

The commissioner of transportation shall, in accordance with the rules, regulations, policies and procedures of the state publications committee, prepare a comprehensive statewide scenic highway plan. In the preparation of this plan, the commissioner may consult as necessary with the department of environment and conservation, the department of agriculture, the department of economic and community development, the respective development districts across the state, and the Tennessee historical commission.

SECTION 36. Tennessee Code Annotated, Section 54-17-106, is amended by deleting the section in its entirety.

SECTION 37. Tennessee Code Annotated, Section 54-17-107(d), is amended by deleting the subsection in its entirety.

SECTION 38. Tennessee Code Annotated, Title 54, Chapter 8, is amended by deleting the chapter in its entirety.

SECTION 39. Tennessee Code Annotated, Section 54-10-103(a), is amended by deleting the language "at a January session".

SECTION 40. Tennessee Code Annotated, Section 54-10-103(b), is amended by deleting the language "the previous year" and by substituting instead the language "previously".

SECTION 41. Tennessee Code Annotated, Title 54, Chapter 10, Part 1, is amended by deleting Sections 54-10-108, 54-10-109 and 54-10-110 in their entirety.

SECTION 42. Tennessee Code Annotated, Section 55-12-102, is amended by deleting subdivision (12) in its entirety and by substituting instead the following:

(12) "Proof of financial responsibility" or "proof of financial security" means:

(A)

(i) If proof is required after December 31, 1989, but prior to January 1, 2009, such proof means:

(a) A written proof of liability insurance coverage provided by a single limit policy with a limit of not less than sixty thousand dollars (\$60,000) applicable to one (1) accident;

(b) A split-limit policy with a limit of not less than twenty-five thousand dollars (\$25,000) for bodily injury to or death of one (1) person, not less than fifty thousand dollars (\$50,000) for bodily injury to or death of two (2) or more persons in any one (1) accident, and not less than ten thousand dollars (\$10,000) for damage to property in any one (1) accident;

(c) A deposit of cash with the commissioner in the amount of sixty thousand dollars (\$60,000); or

(d) The execution and filing of a bond with the commissioner in the amount of sixty thousand dollars (\$60,000).

(ii) An insured holding a policy that complies with the insurance requirements of the financial responsibility law on December 31, 1989, will not be deemed to be in violation of the law if the policy meets the limits specified in subdivisions (12)(A)(i)(a)-(d) as of the first renewal after that date;

(B)

(i) If proof is required after December 31, 2008, proof means:

(a) A written proof of liability insurance coverage provided by a single limit policy with a limit of not less than sixty thousand dollars (\$60,000) applicable to one (1) accident;

(b) A split-limit policy with a limit of not less than twenty-five thousand dollars (\$25,000) for bodily injury to or death of one (1) person, not less than fifty thousand dollars (\$50,000) for bodily injury to or death of two (2) or more persons in any one (1) accident, and not less than fifteen thousand dollars (\$15,000) for damage to property in any one (1) accident;

(c) A deposit of cash with the commissioner in the amount of sixty thousand dollars (\$60,000); or

(d) The execution and filing of a bond with the commissioner in the amount of sixty thousand dollars (\$60,000);

(ii) An insured holding a policy that complies with the insurance requirements of the financial responsibility law on December 31, 2008, will not be deemed to be in violation of the law if the policy meets the limits specified in subdivision (12)(B)(i)(a)-(d) as of the first renewal after December 31, 2008;

SECTION 43. Tennessee Code Annotated, Section 55-9-408, is amended by deleting the section in its entirety and by substituting instead the following:

55-9-408. Headlights shall be deemed to comply with the provisions of § 55-9-406, prohibiting glaring and dazzling lights, if the headlights are of a type customarily employed by manufacturers of automobiles and in addition are equipped with some anti-glare device; provided, that the anti-glare device, or any combination thereof, when properly adjusted, shall prevent any of the bright portions of the headlight beams from rising above a horizontal plane passing through the lamp centers parallel to a level road upon which the loaded vehicle stands and in no case higher than forty-two inches (42"), seventy-five feet (75') ahead of the vehicle.

SECTION 44. Tennessee Code Annotated, Section 55-9-409(a), is amended by deleting the subsection in its entirety and by substituting instead the following:

(a) Any member of the highway patrol having reasonable ground to believe that any headlamp or auxiliary driving or fog lamp or any device upon a vehicle emits a glaring light as defined in §§ 55-9-406 and 55-9-408, or otherwise fails to comply with the requirements of this part, may require the driver of the vehicle to stop and submit the lamp to an inspection or test. The officer making the inspection shall require the driver of the vehicle to remove the illegal lamp within twenty-four (24) hours, and may arrest the driver and give the driver a notice to appear, and may further require the driver or the owner of the vehicle to produce in court satisfactory evidence of the removal of the illegal lamp.

SECTION 45. Tennessee Code Annotated, Section 55-9-409(b), is amended by deleting the language "of a type that has been approved by the department".

SECTION 46. Tennessee Code Annotated, Section 55-9-411, is amended by deleting the section in its entirety.

SECTION 47. Tennessee Code Annotated, Section 55-9-412, is amended by deleting the section in its entirety.

SECTION 48. Tennessee Code Annotated, Section 55-10-203(a)(2), is amended by deleting the language "involuntary manslaughter" and by substituting instead the language "criminally negligent homicide".

SECTION 49. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 50. This act shall take effect July 1, 2013, the public welfare requiring it.